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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 17 January 1990, at 3 p.m.

Chairman: Mr. BADAWI EL SHEIKH

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The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS (agenda item 6)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Cyprus (E/1986/4/Add.2 and 26) (continued)

1. The CHAIRMAN said that, to assist the Committee to formulate its concluding observations on Cyprus, he would ask the Chairman/Rapporteur of the pre-sessional Working Group to provide a review of the Committee's consideration of that country's second periodic report (E/1986/4/Add.2 and 26) to which other members of the Committee could add their comments. He would suggest that a similar method should be followed in respect of the other reports by States parties to be examined by the Committee.

2. Mr. SIMMA, Chairman/Rapporteur of the pre-sessional Working Group, said he considered that both the report of the Government of Cyprus and the Committee's dialogue with its representatives had been positive. With regard to the report itself, he noted that it had appeared in two parts: document E/1986/4/Add.2 had contained information only on two technical points whereas document E/1986/4/Add.26, submitted in January 1989, was a 16-page report containing a wealth of information on the progress made and the difficulties encountered in implementing articles 10 to 12 of the Covenant. It was evident that the Committee's work was being taken seriously by Governments, which perceived the need for a greater input than they had provided before its establishment. Furthermore, the Cyprus report had been admirably presented: the Government's representatives had provided additional information and had shown a readiness to engage in a dialogue without taking refuge in generalities as was so often the case. They had not glossed over the fact that one of the Government's main difficulties was that for over 18 years, part of the territory of Cyprus had been occupied by the Turkish army in breach of international law so that the Government had been unable to exercise its authority in those areas. The Committee should take note of that situation and express the hope that the talks currently being held under United Nations auspices would lead to a just and lasting solution to the problem. The Government's representatives had on the whole responded satisfactorily to the list of issues. There had been some confusion in their answer to question II.6 on the status of abortion in Cyprus, between the legality of abortion, which was a matter of civil and political rights, and the circumstances under which such operations were performed, which fell within the purview of the Committee. No answer had been provided to question II.7 as to the definition of the term "anti-social and maladjusted youths". Such a phrase caused some misgivings in view of the number of cases in the past where countries had defined similar terms so broadly as to infringe the individual's civil and political rights. There was no reason to assume any sinister connotation, but he hoped that the Government would take the matter up in the additional information which its representatives had promised to send. With regard to the reply to question II.10, there had been an indirect answer to the second part about the inability of children to acquire the full benefits of compulsory education while employed, and the information had been given that new legislation was pending which changed the minimum age for employment.

3. It might be said that the Government of Cyprus had provided as good a response as could be expected on the basis of the Committee's current methods. In fact, as usual, no real problem had been identified and the impression had been given that the general situation was satisfactory, although small changes might be required. That one-dimensional picture was the result of the guidelines and monitoring technique adopted by the Committee. The guidelines should be changed to enable the Committee to obtain a more dynamic picture, and modifications were also required to the oral part of the proceedings.

4. Mr. NENEMAN proposed a somewhat shorter observation to the effect that, bearing in mind the difficult and abnormal situation obtaining in Cyprus, the Committee could not but appreciate the efforts, both legal and economic, displayed by the Government in the social field. The report on articles 10 to 12 of the Covenant had been well prepared and gave a good insight into the situation regarding implementation. The Committee was gratified to have been addressed by competent, well-prepared and modest representatives who responded mostly satisfactorily to questions and in some cases promised to provide additional information. As to the plans for future social policy which the representatives had outlined, it was to be hoped that the Government would allot a higher proportion of gross domestic product to social security. The present allocation of 2.3 per cent was relatively low for a country at Cyprus' level of development; for purposes of comparison, corresponding figures ranged from nearly 20 per cent in Scandaninavian countries through 15 per cent in Eastern Europe to 6 per cent in the United States.

5. Mr. KONATE, referring to Mr. Texier's draft general comment relating to articles 22 and 23 of the Covenant (E/C.12/1990/Misc.1) in conjunction with the difficulties in providing housing for low-income families mentioned in the Cyprus report (E/1989/4/Add.26, para. 35 et seq), suggested that the Committee might recommend that the Economic and Social Council draw the attention of the United Nations Centre for Human Settlements to the problem so that it might furnish assistance, subject of course to the approval of the Government of Cyprus.

6. Mr. GLAIEL said that his views on the Cyprus report coincided with those expressed by Mr. Simma but he would prefer the references to answers to specific questions to be omitted. He observed that the evaluation of the second report of a developing country should be based on progress achieved since the submission of its initial report.

7. The CHAIRMAN, summing up, said that Mr. Simma's review had been positive and had stressed the openness of the Government's representatives, their recognition that not everything was perfect in their country, and their promise of additional information. Mr. Konate's suggestion was a constructive one not only for Cyprus but also for the Committee, whose contribution to the implementation of the Covenant would thereby be enhanced.

8. He understood from Mr. Sparsis that the Government of Cyprus was to request that the supplementary information given in its delegation's introductory statement should be reproduced and circulated as an official document of the Committee.

9. He expressed his appreciation to the Government of Cyprus and declared that consideration of its second periodic report on articles 10 to 12 of the Covenant had been concluded.

READEX FICHE

Additional information submitted by Zaire, France and the Netherlands (E/C.12/1990/Misc.15)

10. The CHAIRMAN invited Mr. Konate to introduce the pre-sessional Working Group's report on additional information submitted by States parties to the Covenant.

11. Mr. KONATE said that he had been entrusted by the Working Group with the task of preparing some general comments on certain subjects of concern arising from the additional information submitted by the Goverments of Zaire (E/1989/5), France (E/1989/5/Add.1) and the Netherlands (E/1989/5/Add.2). Since the resultant document (E/C.12/1990/Misc.15) was not yet available in all languages, he read out the Working Group's recommendations in the French-language version and said that the Working Group would welcome any comments on their substance.

12. Mr. SIMMA, Chairman/Rapporteur of the pre-sessional Working Group, noted that some members had complained of a lack of interest by non-governmental organizations in the Committee's work. Subsequent to the formulation of the Working Group's recommendations, the Committee had received a paper from a non-governmental organization in the Netherlands, Habitat International Coalition, on housing standards in the Netherlands and the Government replies contained in document E/1989/5/Add.2. If members agreed, the Committee might thank the Habitat International Coalition for its paper, append it to document E/C.12/1990/Misc.15, forward it together with the Committee's observations to the Government of the Netherlands and invite a reply.

13. Mrs. JIMENEZ BUTRAGUEÑO suggested that the expression of thanks to France for its co-operation should be brought into line with that addressed to the other two countries dealt with by document E/C.12/1990/Misc.15.

14. The CHAIRMAN suggested that the contents of that document should be presented in the form of concluding observations.

15. It was so decided.

16. Mr. KONATE drew members' attention to an error in the note on section II, page 3: the reference in the last line should be to article 2 and not to article 9.

17. Concerning Mr. Simma's remarks, while the information supplied by Habitat International Coalition was certainly welcome, it had been received after the Working Group had considered the additional information submitted by the Netherlands Government, which was undertaking a programme in conformity with the Covenant to remedy its housing difficulties. The Committee might draw the Netherlands Government's attention to the paper if it wished, but in his view it should not appear to be issuing orders to a Government.

18. Mr. TEXIER said that, as a Frenchman, he would like to reassure the Committee that French legislation provided for full equality of social benefits as between French nationals and aliens lawfully in French territory. He wondered in what portion of the Committee's report the note in the recommendation on France should appear.

19. The CHAIRMAN speaking as a member of the Committee, said that in his view concluding observations should not contain a nota bene. It was important for the Committee's credibility that it should state things precisely. As to whether the Netherlands Government should be invited to look into the Habitat International Coalition paper, all documents were available both to States parties for replies and to members for comments. Reference might be made to the matter in the concluding observations. It was for the Committee to decide on the course to follow: to delay action concerning the Netherlands until all members had had an opportunity to read all the documents; or to limit remarks to the information which had been available at the time of the Working Group's discussion.

20. Mr. SIMMA said that if the Committee wished to have more input from non-governmental organizations, it should give attention to the Habitat International Coalition submission. If the paper reached the Committee in all the relevant languages in time for a discussion, the first course outlined by the Chairman should be followed.

21. Mr. KONATE said that, while he did not object categorically to Mr. Simma's suggestions, he felt that it would be somewhat discourteous to ask the Government of the Netherlands again for additional information. It would also be accusatorial to keep returning to the Government for replies, which would resemble the procedure used for individual communications. Information from non-governmental organizations had already been taken into account during the discussion of the country's report. The purpose of the note at the end of section II was to reflect a lack of agreement in the Working Group concerning the applicability of France's declaration to the granting of social security benefits and therefore its conformity with article 2 (2).

22. Mr. SIMMA said that the pre-sessional Working Group had had a lengthy discussion on paragraphs 25 and 27 of the additional information submitted by France (E/1989/5/Add.1). Some members had felt that the disability allowance mentioned in paragraph 27 raised a problem of conformity with the Covenant, while others had felt that there was no incompatibility since the allowance in question was not a social security benefit. In his own view, to draw clear conclusions the Committee would have to determine what exactly was meant by a social security benefit.

23. Mr. ALVAREZ VITA said that the Committee could not treat Governments that respected human rights in the same way as those that did not without jeopardizing its credibility. It must avoid meriting the type of criticism that had been aimed at its consideration of the report of Romania, when few members had been very forthright in their comments on a régime that was now commonly agreed to have been a monstrosity. France was a country with a long tradition of respect for human rights, a point that should be made clear. Given that tradition, the problem regarding France was minimal. However, in practical terms, he did not think there would be heavy financial implications in extending the disabled person's allowance to non-nationals, and there was also a question of principle involved. Article 2 (2) was quite clear in its stipulation of the right not to be discriminated against, and it was his absolute conviction that linking the disabled person's allowance to nationality was not in conformity with France's obligations under the international instruments it had signed.

24. Mrs. JIMENEZ BUTRAGUEÑO said that in her opinion the note at the end of section II should remain, but the situation regarding the benefit in question should be described more precisely.

25. The CHAIRMAN noted that the discussion of the additional information had been useful and pointed out that the principle of equal treatment of States applied to form and not to substance. As to the note, in section II it was clear that, if it was to be kept, it would have to be changed in both form and substance.

SUBMISSION OF REPORTS BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1988 (LX), COUNCIL DECISION 1985/132 AND COUNCIL RESOLUTION 1988/4) (agenda item 5) (E/C.12/1990/2, E/1990/5, E/C.12/1990/L.2)

26. Mr. HOUSHMAND (Representative of the Secretary-General), introducing the documents before the Committee in connection with agenda item 5 (E/C.12/1990/2, E/1990/5 and E/C.12/1990/L.2), recalled that in conformity with Economic and Social Council resolution 1979/43, the Committee was at each session to consider the status of submission of reports by States parties and make recommendations, as necessary, that the Secretariat should send appropriate reminders in respect of over-due reports. Furthermore, Council decision 1981/158 requested the Committee to annex to its report to the Council a list of States parties to the Covenant, together with an indication of the status of submission of reports. Document E/C.12/1990/2 was the standard document, submitted every year, which gave such details in relation to the original programme established by the Economic and Social Council in resolution 1988 (LX), whereby States parties fell into one of two reporting cycles under which they submitted initial and subsequently second periodic reports on three groups of articles of the Covenant in succession. Members of the Committee would note from the annexes to that document that a number of reports due under those arrangements had not yet been received. To date, in respect of initial reports, 37 on articles 6 to 9, 32 on articles 10 to 12 and 40 on articles 13 to 15 were overdue in respect of second periodic reports, 4 on articles 6 to 9, 17 on articles 10 to 12 and 17 on articles 13 to 15 were also overdue.

27. By its resolution 1988/4, the Council had decided, on the recommendation of the Committee, to revise its earlier programme of reporting established in resolution 1988 (LX). States parties were requested to submit a single global initial report within two years of the entry into force of the Covenant for the State party concerned and thereafter similar periodic reports at five-year intervals. Paragraphs 8, 9 and 10 of document E/1990/5, provided information about the status of reporting under the new arrangements. The latest information showed that initial reports on articles 1-15 of the Covenant, submitted in accordance with Council resolution 1988/4, had been received from Luxembourg, Democratic Yemen, Costa Rica and the Dominican Republic, but that 29 States had not yet submitted any reports at all since their ratification of, or accession to, the Covenant. Those States had been requested to submit their initial reports on articles 1 to 15 of the Covenant in a consolidated document by 30 June 1990 and their periodic reports at five-year intervals thereafter.

28. Paragraph 10 of document E/1990/5 dealt with two new States parties, Equatorial Guinea and Guatemala, which had acceded to the Covenant in September 1987 and May 1988 respectively, after the new decision on periodicity for initial reports. Both States had been requested to submit initial reports by 30 June 1990. Subsequently, two further States, Algeria and Ireland, had ratified the Covenant, bringing the total number of States parties to 94. Each had two years, after entry into force, in which to submit its initial report, the deadline being 30 June 1991 for Algeria, and 30 June 1992 for Ireland.

29. The third document of concern to the Committee, the note by the Secretary-General (E/C.12/1990/L.2), fell into two parts. Part A dealt with the period of transition from the previous reporting system to the new periodicity approved by the Council in its resolution 1988/4, and contained subsections referring to submission of initial reports and of second periodic reports. Part B dealt with global reports, for submission under the new system. Section I of part B listed States which had been parties to the Covenant for some time, but which had as yet submitted no reports at all, together with the two new States parties. Section II of part B dealt with second periodic reports of a global nature, with submission dates ranging from 30 June 1990 to 30 June 1997. Section III of part B dealt with submission of third periodic reports under the new system. States that were expected to submit reports by 30 June 1990 had already been requested to do so in notes verbales from the Secretary-General; other States whose reports were scheduled for submission in subsequent years had already been notified of the dates on which their reports were expected.

30. The CHAIRMAN said that, in order to avoid confusion between the old and new systems of reporting, all States that had failed to submit a report under the old system were now required to submit a global report, covering all articles of the Covenant, by 30 June 1990, and had been given ample notification of that requirement. He asked members whether they wished to make comments before the contents of the documents under consideration were communicated to the States concerned.

31. Mr. GLAIEL requested a clarification. If a State was late in submitting a report under the old system, but had already submitted one or more reports under the new system, as was the case with his own country, was it still required to submit the report overdue under the old system?

32. Mr. HOUSHMAND (Representative of the Secretary-General) pointed out that, while the Syrian Arab Republic was listed in document E/C.12/1990/2 as having submitted no initial report under articles 13 to 15, it was not included in the list of countries whose reports were overdue contained in part A of the more recent document, E/C.12/1990/L.2, in view of the fact that it had already submitted a global second periodic report. In section III of part B of that document, it was requested to submit only a third periodic report, due by 30 June 1994.

33. The CHAIRMAN said that, if there was no objection, he would take it that the new timetable for submission of reports contained in document E/C.12/1990/L.2 was adopted.

34. It was so decided.

35. Mr. TEXIER, on the question of the Committee's workload and having regard to the organization of the fifth session, asked how many reports by States parties were currently ready that the Committee had not yet examined.

36. Mr. HOUSHMAND (Representative of the Secretary-General) said that it had been the intention of the Secretariat to distribute to the Committee, later in the current session and in time for its deliberations on the next session, a list of reports received and pending consideration, starting with the 6 reports postponed from the current session, which would head the list for consideration at the next session. That list would also include another 13 reports already received. It would be for the Committee to decide how many of those reports to take up at the following session.

ORGANIZATION OF WORK (agenda item 4) (continued)

Briefings on the Committee's work

37. The CHAIRMAN reminded members that, at the previous session, in co-operation with the Rapporteur, the Vice-Chairmen and Mr. Sima, he had convened two briefings, one for the non-governmental organizations and one for representatives of the media in Geneva, with a view to informing them of the Committee's activities. Bearing in mind the strong views expressed by Mr. Alvarez Vita regarding the importance of keeping the non-governmental organizations informed of its work, he hoped that the representative of the Secretary-General, in conjunction with the Information Service and the Liaison Officer for Non-Governmental Organizations, would arrange for similar briefings to be held at the current session, and urged members of the Committee, and particularly the Bureau to attend them.

Use of economic and social indicators

38. Mr. WIMER ZAMBRANO said that, as at the previous session, he had prepared a small compendium of the main economic indicators of the countries whose reports were listed for consideration at the current session. The document was useful both because it made statistics available and because those statistics derived from highly authoritative sources, which did not necessarily coincide with the Government's figures. He had asked the Secretariat to make copies of the document available to members of the Committee.

39. The CHAIRMAN thanked Mr. Wimer Zambrano for taking the trouble to compile the list of indicators. The document was now available, although in Spanish only. Perhaps the Committee should consider whether the question of social and economic indicators should be developed with the help of the Secretariat, with a view to their subsequent use as benchmarks in the evaluation of States parties' performance.

40. Mr. ALSTON praised Mr. Wimer Zambrano's valuable contribution. He also drew attention to two readily available and authoritative sets of statistics, published annually in three languages and totalling only about 50 pages, namely, those contained in the annual UNICEF report on the state of the world's children, and in the World Bank's World Development Report. He reiterated the request he had made in previous years that the relevant sections of those publications should be photocopied and circulated to members at the start of each session.

41. He himself had done some preliminary work on the question of the use of indicators by the Committee. Statistics were a complex issue requiring careful handling, and it was impossible to make simple comparisons between States. Mr. Türk, Special Rapporteur on the new international economic order and the promotion of human rights appointed by the Sub-Commision on Prevention of Discrimination and Protection of Minorities, planned to focus heavily in his report to the Sub-Commission on the feasibility of using indictors as a means of assessing States' performance with respect to economic, social and cultural rights. It was to be hoped that, in its discussion with Mr. Türk later in the session, the Committee would stress the complexity of the subject of indicators, and would prevail on him to treat the subject with sophistication in his report, thereby enabling the Committee to make even better use of indicators.

42. The CHAIRMAN expressed the hope that the Secretariat would provide members with copies of the relevant pages of the World Bank and UNICEF reports. He informed members that the preliminary report by Mr. Türk contained in document E/CN.4/Sub.2/1989/19 had been distributed.

43. Mr. WIMER ZAMBRANO pointed out that the figures contained in his document did not differ from those contained in the publications of the United Nations agencies. They had simply been gleaned from several volumes, each totalling several hundred pages, for the specific use of members of the Committee.

44. Mr. KOUZNETSOV said that, while the indicators could be found in other official sources, the work done by Mr. Wimer Zambrano was nevertheless extremely useful. However, there were many different ways of interpreting the same statistics, and, if similar work was undertaken by members of the Committee in future, it would be useful to indicate the sources from which the figures had been taken.

45. Mrs. JIMENEZ BUTRAGUEÑO said there was a need for a separate document containing more detailed statistics to be made available for future sessions.

46. Mr. ALVAREZ VITA suggested that if the Secretariat were to undertake to translate simply the headings contained in the document prepared by Mr. Wimer Zambrano, its workload would be greatly reduced and the document would then be accessible to all.

47. Mr. ALSTON said that the statistics published by UNICEF annually in three languages, gave information on 40 or more indicators in fields of direct relevance to the Committee, including economics and demography, in addition to some 10 or 12 indicators on such topics as the status of womens rights and education. Since the UNICEF statistics were more comprehensive and up-to-date than those provided by Mr. Wimer Zambrano, helpful though those were, there was no reason why the Committee should not make use of them, always bearing in mind the fact that countries with a population of less than 1 million were not included.

48. Mr. WIMER ZAMBRANO pointed out that the sources of the statistics were given on the last page of his document, whose aim was merely to provide statistics in a practical and convenient form rather than to compete with the statistical compilations produced by United Nations bodies.

49. The CHAIRMAN said that that document would undoubtedly facilitate the Committee's access to information not otherwise conveniently available.

Question of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (continued)

50. The CHAIRMAN said that the question of an Optional Protocol had been discussed extensively at the previous meeting, and he recalled that Mr. Alston had suggested that the Committee reflect on the issue informally. The Committee should proceed with caution, since it did not wish to give the impression that it had reached agreement on the need for an Optional Protocol. The Committee's report should merely reflect the discussion that had taken place and indicate that some members were in favour of exploring the idea. As a first step, a member of the Committee could take the initiative of preparing a paper on the topic for discussion at the next session or at a subsequent session.

National human rights commissions

51. The CHAIRMAN, referring to a point raised by Mr. Sparsis, said that the Committee's report should reflect the recommendation that human rights' national commissions should devote attention to the implementation of economic, social and cultural rights in addition to that of civil and political rights.

Notification of non-attendance by Committee members

52. Mr. ALVAREZ VITA said that he wished to raise a matter relating to the Committee's procedure. At the beginning of the session the Chairman had announced that he had received a communication from a diplomatic mission in Geneva stating that one expert would be unable to attend due to pressure of work in his own country. While the mission should be thanked for that communication, the Committee should bear in mind that its members served in an individual capacity and not as representatives of their governments. An individual unable to be present should therefore write to the Chairman to convey that information personally.

53. The CHAIRMAN said that the point raised by Mr. Alvarez Vita was well taken. In future such information should be communicated directly by the expert concerned even if it was also conveyed by the relevant mission.

The meeting rose at 6 p.m.